

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400

3050 K STREET, NW

WASHINGTON, D.C. 20007-5108

(202) 342-8400

NEW YORK, NY
CHICAGO, IL
AUSTIN, TX
HOUSTON, TX
STAMFORD, CT
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES
MUMBAI, INDIA

FACSIMILE

(202) 342-8451

www.kelleydrye.com

DIRECT LINE: (202) 342-8614

EMAIL: dsmith@kelleydrye.com

REDACTED - FOR PUBLIC INSPECTION

April 13, 2017

Accepted / Filed

APR 13 2017

Federal Communications Commission
Office of the Secretary

VIA HAND DELIVERY

Marlene H. Dortch

Secretary

Federal Communications Commission

445 12th Street, SW

Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: Connex International, Inc. Request for Waiver of One-Year Downward
Revision Deadline for FCC Forms 499-A; WC Docket No. 06-122
Redacted for Public Inspection

Dear Ms. Dortch:

On behalf of Connex International, Inc. ("Connex"), enclosed please find an original and four copies of a Request for Waiver of One-Year Downward Revision Deadline for Federal Communications Commission ("FCC" or "Commission") Forms 499-A ("Request").

The Confidential version of this filing is being submitted concurrently, by hand delivery, under separate cover.

Also enclosed is a duplicate copy of the submission. Kindly date-stamp the duplicate and return it to the courier. Should you have any questions, please contact the undersigned.

No. of Copies rec'd
List ABCDE

0+4

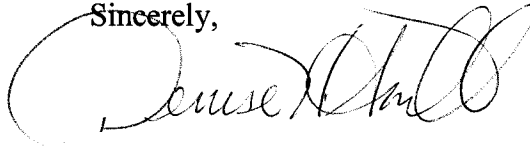
REDACTED FOR PUBLIC INSPECTION

KELLEY DRYE & WARREN LLP

Marlene H. Dortch
April 13, 2017
Page Two

Please contact the undersigned at (202) 342-8614 if you have any questions regarding this filing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Denise N. Smith".

Denise N. Smith
Ross G. Slutsky

Kelley Drye & Warren LLP
3050 K Street, NW, Suite 400
Washington, DC 20007
Tel. (202) 342-8614
Fax. (202) 342-8451

Counsel to Connex International, Inc.

Enclosures

REDACTED FOR PUBLIC INSPECTION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)
)
)

Request for Waiver by Connex International, Inc.)
of One-Year Downward Revision Deadline for)
FCC Form 499-A)
)
_____)

WC Docket No. 06-122

Accepted / Filed

APR 13 2017

Federal Communications Commission
Office of the Secretary

**CONNEX INTERNATIONAL, INC. REQUEST FOR WAIVER OF ONE-YEAR
DOWNWARD REVISION DEADLINE FOR FCC FORM 499-A**

Denise N. Smith
Ross G. Slutsky
Kelley Drye & Warren LLP
3050 K Street, NW
Suite 400
Washington, D.C. 20007-5108

Counsel to Connex International, Inc.

April 13, 2017

REDACTED FOR PUBLIC INSPECTION

TABLE OF CONTENTS

SUMMARY	iii
I. STATEMENT OF FACTS	2
II. WAIVER OF THE REVISION FILING DEADLINE IS JUSTIFIED BY FCC PRECEDENT	3
A. Connex's Error Constitutes an Impermissible Double Payment to the USF	5
B. Connex's Error is Clerical	6
C. Connex's Error has caused the Company Significant Financial Hardship	8
D. Upon Discovery of Its Error Connex Immediately Took Corrective Action.....	9
E. Granting Connex's Waiver Request is in the Public Interest	10
III. GRANTING CONNEX'S WAIVER REQUEST WILL NOT ADVERSELY IMPACT THE UNIVERSAL SERVICE FUND	11
IV. CONCLUSION.....	12

REDACTED FOR PUBLIC INSPECTION

SUMMARY

Connex International, Inc. (Connex or the Company) (USAC Filer ID: 827304) requests, pursuant to Federal Communications Commission (“FCC” or the “Commission”) Rule 1.3, that the Commission waive the one-year deadline for FCC Form 499-A revisions that would result in a decreased universal service fund (USF) contribution to allow Connex to resubmit its 2016 FCC Form 499-A to correct a ministerial error that resulted in the Company receiving a refund of only approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] which was nearly [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] times less than the approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] refund the Company was due.

Connex timely filed its 2016 Form 499-A, and awaited an expected refund of approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] pursuant to the FCC Form 499-A true-up process. However, in wake of the true-up process, Connex received USAC invoices totaling only approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] - a mere fraction of the expected refund. After consulting with counsel about this discrepancy, Connex learned that it had inadvertently included customer USF recovery revenues twice on USF-assessable reporting lines of its Form 499-A, resulting in an impermissible double payment and a substantial shortfall in its USF contribution refund. Promptly upon discovering this error, Connex filed this request for waiver to permit the Company to file a revised Form 499-A to correct its clerical reporting error.

A waiver of the revision deadline is in the public interest and is warranted under Commission precedent. The Commission has granted waiver requests in the past in

REDACTED FOR PUBLIC INSPECTION

circumstances sufficiently similar to the facts here to warrant a grant of Connex's waiver request. Specifically, a waiver is appropriate here because: (1) Connex's error amounts to an impermissible double payment to USF; (2) the error is clerical in nature; (3) the error has imposed—and absent a waiver will continue to impose—a material financial hardship on Connex; (4) upon discovery of its error, Connex immediately took a corrective course of action; and (5) equitable considerations demand that Connex be made whole through payment of the full expected value of their refund.

Granting Connex's waiver request would alleviate the significant financial hardship the Company is experiencing and that cannot be remedied absent Commission grant of this waiver request. Moreover, grant of the waiver request would not undermine the goals of or otherwise adversely impact the universal service fund.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

WC Docket No. 06-122

Waiving the 499-A revision deadline is in the public interest and the Commission has granted similar waiver requests in circumstances substantially similar to those here.

1

REDACTED FOR PUBLIC INSPECTION

Granting the waiver request would correct an instance of erroneous double contribution to the USF on a single set of revenues; would alleviate the resulting financial hardship Connex is experiencing as a result of this error, would be consistent with Commission precedent, and would not undermine the goals of the USF.

I. STATEMENT OF FACTS

Connex is a long-established provider of audio-bridging, videoconferencing, and online collaborative solutions. Effective with the Commissioner's 2008 *InterCall Order* applying USF contribution requirements to providers of interstate audio-bridging service,² Connex has been subject to USF contribution obligations. Since that time Connex has sought to remain compliant with its USF obligations. Of particular relevance, Connex has diligently reported USF revenues to the best of its capabilities and timely filed all relevant FCC regulatory filings, including all past Forms 499-A and 499-Q.

The Company timely filed its 2016 Form 499-A, reporting calendar year 2015 revenues, and anticipated receiving a refund of approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] as a result of the Form 499-A true up process. Upon completion of the true-up process, Connex received USAC invoices identifying refunds totaling approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] - significantly less than the refund the Company anticipated. After consulting with legal counsel, Connex determined it had inadvertently reported twice the USF recovered from the Company's subscribers. Specifically, this customer USF recovery revenue was accurately reported on Line 403 of the Form 499-A but was accidentally also included in the Company's assessable revenues

² See *Request for Review by InterCall, Inc. of Decision of Universal Service Administrator*, 23 FCC Red 10731 (2008) (InterCall Order).

REDACTED FOR PUBLIC INSPECTION

reported on FCC Form 499-A Line 417 resulting in payment to USF twice on those customer USF recovery revenues. As a result, Connex reported [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in gross universal service contribution base amounts, rather than the actual contribution base of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]. Promptly after realizing this error, Connex seeks relief, in the form of a waiver of the one-year FCC Form 499-A downward revision deadline, to permit the Company to submit a revised Form 499-A to correct this ministerial error.

II. WAIVER OF THE REVISION FILING DEADLINE IS JUSTIFIED BY FCC PRECEDENT

On a number of occasions, the Commission has granted requests for waivers of filing deadlines in situations involving ministerial errors that are substantially similar to the present circumstances. In the interest of equity and consistency, granting Connex's request for a waiver is also justified in this case.

In 2004, the Wireline Competition Bureau ("Bureau") issued its order modifying the deadline for submitting downwardly revised annual Telecommunications Reporting Worksheets ("FCC Form 499-A").³ The Order clarified the Bureau's intention "to reject as untimely any Form 499-A revised filing not submitted within twelve months of the due date of the original filing in question, if the revision would decrease . . . contributions to support mechanisms for universal service"⁴ In establishing the twelve month revision deadline, the Bureau cited several justifications for the new deadline. Among these reasons were that the

³ See *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Changes to the Board of Directors of the National Exchange Carrier Associations*, CC Docket Nos. 96-45, 98-171, 97-21, Order, 20 FCC Rcd 1012, 1012, ¶ 1 (rel. Dec. 9, 2004) ("FCC Form 499-A One-Year Deadline Order").

⁴ See *id.*

REDACTED FOR PUBLIC INSPECTION

filing deadline would (1) “help ensure the stability and sufficiency” of the fund, (2) “improve the integrity of the universal service contribution methodology,” and (3) “promote efficiency in administration of the universal service support mechanism.”⁵

However, the Commission’s rules permit companies to seek a waiver of Commission rules for “good cause shown.”⁶ The Commission has stated that it “generally finds good cause to grant a waiver of its rules where the particular facts make strict compliance inconsistent with the public interest if applied to the petitioner and when the relief requested would not undermine the policy objective of the rule in question.”⁷ When determining whether good cause exists to grant a waiver of the Form 499-A revision deadlines, the Commission may consider “hardship, equity, or more effective implementation of overall policy on an individual basis”⁸ and, generally, also has analyzed the nature of the error and the magnitude of the harm.⁹ As described below, a waiver is warranted here because (1) Connex’s error amounts to a double payment to the USF, (2) the error was clerical in nature, (3) the error has caused substantial

⁵ See *id.* at 1016, ¶ 10.

⁶ 47 C.F.R. §1.3.

⁷ *In re Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance with Deadlines for Tier III Carriers*, CC Docket No. 94-102, Order, 20 FCC Rcd 7709, ¶ 9 (2005).

⁸ See *In re Federal-State Joint Board on Universal Service; Universal Service Contribution Methodology; Adventure Communications Technology, LLC, Form 499 Filer ID: 825749 Request for Review of USAC Rejection Letter and Request for Waiver of USAC 45 Day Revision Deadline*, CC Docket No. 96-45, WC Docket No. 06-122, Order, 23 FCC Rcd 10096, n.10 (2008) citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁹ See *Federal-State Joint Board on Universal Service; Universal Service Contribution Methodology; Adventure Communications Technology, LLC, Form 499 Filer ID: 825749 Request for Review of USAC Rejection Letter and Request for Waiver of USAC 45 Day Revision Deadline*, CC Docket No. 96-45, WC Docket No. 06-122, Order, 23 FCC Rcd 10096 (rel. June 26, 2008) (“Adventure Order”); *In the Matter of Universal Service Contribution Methodology; Request for Review of a Decision of the Universal Service Administrator and Request for Waiver by American Broadband & Telecommunications*, WC Docket No. 06-122, Order, DA 13-1608 (rel. July 22, 2013) (“American Broadband Order”); *In the Matter of Universal Service Contribution Methodology; Petition for Reconsideration by Ascent Media Group, Inc.*, WC Docket No. 06-122, Order on Reconsideration, 28 FCC Rcd 06150 (rel. May 3, 2013) (“Ascent Media Order”).

REDACTED FOR PUBLIC INSPECTION

financial hardship for Connex, (4) and, upon identifying the error, Connex immediately sought to correct it.

A. Connex's Error Constitutes an Impermissible Double Payment to the USF

The FCC has consistently recognized that USAC should not double collect USF on identical revenue streams. For example, in the *2012 Wholesale-Reseller Clarification Order*, the FCC stated that “the same revenues should not be assessed twice for USF contribution purposes.”¹⁰ The Commission’s *2012 Wholesaler-Reseller Clarification Order* prohibited the collection of USF from more than one carrier in the same service distribution chain and the Commission has consistently reiterated in subsequent orders, that USF is required to be paid only once on revenues: “[O]ur present rules require contribution only once along the distribution chain.”¹¹ Moreover, in that *2012 Wholesaler-Reseller Clarification Order*, the Commission prohibited USAC from double-collecting USF: *[W]e clarify that if a wholesale provider's customer actually contributed, USAC should not attempt to recover contributions from the wholesale provider on the subject revenues . . .*¹²

The *2012 Wholesaler-Reseller Clarification Order* addressed collection from different carriers on the same service revenues but the holding - USF should not be collected

¹⁰ See *Universal Service Contribution Methodology, Application for Review of Decision of the Wireline Competition Bureau filed by Global Crossing Bandwidth, Inc., Request for Review of the Decision of the Universal Service Administrator and Emergency Petition for Stay by U.S. TelePacific Corp. d/b/a TelePacific Communications, XO Communications Services, Inc. Request for Review of Decision of the Universal Service Administrator, Universal Service Administrative Company Request for Guidance*, WC Docket No. 06-122, Order, FCC 12-134, ¶ 44 (rel. Nov. 5, 2012) (“2012 Wholesale-Reseller Clarification Order”).

¹¹ See *2012 Wholesaler-Reseller Clarification Order* ¶ 11 (emphasis added). See also, e.g., *In re: Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service American Telecommunications Systems Inc. Application for Review Eureka Broadband Corporation Petition for Reconsideration Value-Added Communications, Inc. Petition for Review InComm Solutions, Inc. Request for Review Five9, Inc. Request for Review*, DA 17-66, ¶ 13 (rel. Jan. 13, 2017).

¹² See *2012 Wholesaler-Reseller Clarification Order* ¶ 43.

REDACTED FOR PUBLIC INSPECTION

twice on the same service revenues - applies here as well where only one carrier is involved. Connex's Form 499-A contains a simple misstatement of the Company's USF- assessable revenues that is resulting in USF being assessed twice on the same revenues. The Company mistakenly reported consumer USF recovery revenues twice, by independently factoring that revenue into an assessable reporting line in addition to reporting them on Line 403. As a result, Connex was assessed an additional approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in USF contributions on the same set of service revenues. The fact that Connex's error resulted in actual double payment of USF and Commission precedent explicitly prohibiting such double collection of USF supports a finding of good cause to grant Connex's requested waiver of the one-year downward revision deadline for filing FCC Form 499-A.

B. Connex's Error is Clerical

Connex's Form 499-A reflected a mere clerical error and Commission precedent supports grant of waivers of revision deadlines where the error was clerical in nature. The Commission found good cause to waive revision deadlines in cases involving similar clerical errors – that resulted in substantial over reporting of assessable revenues - in its *Premiere Global*, *Aventure* and *Ascent Media* Orders. In the *Premiere Global Order*, the Commission granted a waiver of the 499-A downward revision filing deadline, where a clerical error – the reporting of non-assessable foreign revenues on an assessable reporting line - resulted in *Premiere Global* experiencing significant financial hardship after the company was subjected to a USF contribution instead of a refund.¹³ Similarly, the FCC found good cause to waive the 45-

¹³ See *Universal Service Contribution Methodology, Application for Review by American Teleconferencing Services, Ltd. d/b/a Premier Global Services*, WC Docket No. 06-122, Order, DA 16-1089, ¶ 5 (rel. Sept. 26, 2016) (“Premiere Global Order”).

REDACTED FOR PUBLIC INSPECTION

day revision deadline for FCC Form 499-Q filings in the *Aventure Order* where the filer had mistakenly reported its total company revenues—“includ[ing] access and other revenues not subject to [USF] contributions”—in its assessable contribution base, instead of reporting only the Company’s assessable interstate and international end-user revenues.¹⁴ A similar scenario arose in the *Ascent Media Order*, where the filer had “mistakenly reported its total projected company revenues instead of its end-user interstate and international telecommunications revenues” on its August 2007 FCC Form 499-Q.¹⁵ The Commission similarly concluded that a waiver was justified.

The same underlying rationale that applied in those cases also apply in this case. Here, Connex timely filed its 2016 FCC Form 499-A, correctly reporting subscriber USF contribution recovery revenues on Line 403 but also inadvertently and redundantly including those revenues on Line 417, another assessable reporting line. As a result, and similar to the facts in the *Premiere Global Order*, *Aventure Order* and the *Ascent Media Order*, Connex substantially and unintentionally over reported its assessable revenues, only here, Connex’s error resulted in being assessed USF twice on the same revenues. Connex only recently identified the error and, having missed the revision deadline by less than two weeks, has promptly acted to request this waiver. As such, the clerical nature of Connex’s error and Commission precedent granting waiver requests in these factual circumstances support a finding of good cause to grant a waiver of the one-year downward revision deadline for filing FCC Form 499-A.

¹⁴ See *Aventure Order*, 23 FCC Rcd at 10098-99, ¶ 7.

¹⁵ See *Ascent Media Order*, 28 FCC Rcd 06150, 6153-54, ¶¶ 6, 10.

REDACTED FOR PUBLIC INSPECTION

C. Connex's Error has caused the Company Significant Financial Hardship

In determining if good cause exists to grant a waiver request, the FCC also considers the magnitude of the error and the degree of financial hardship the carrier is facing. The Commission's waiver grants in the *Premiere Global Order*, *Ascent Media Order*, and *American Broadband Order*, all justify similar grant here for Connex.

In the *Premiere Global Order*, a clerical reporting error on the Form 499-A resulted in Premiere being subjected to a significant contribution instead of a refund.¹⁶ Similarly, in the *Ascent Media Order*, and the *American Broadband Order*, the filers' reporting errors led to invoices that were ten times the filer's, respectively, typical monthly invoice¹⁷ and projected end-user telecommunications revenues.¹⁸ In the *Aventure Order*, the 499-Q projected end-user telecommunications revenues reporting error resulted in the company receiving an invoice that was nearly twenty times more than what the filer should have owed.¹⁹

Failure to grant Connex's waiver will impose a significant financial hardship on the Company. Specifically, based on the inadvertent error in its 2016 FCC Form 499-A, Connex has received a refund of only approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], nearly [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] times less than the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] the Company was due. Moreover, this error had the effect of requiring Connex to pay an additional [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] more in USF contributions than was necessary. Consequently, the magnitude of the result of Connex's clerical error is

¹⁶ See *Premiere Global Order* ¶ 5.

¹⁷ See *Ascent Media Order*, 28 FCC Rcd at 06153, ¶ 6. Ascent Media also faced significant interest and penalties.

¹⁸ See *American Broadband Order* ¶ 6.

¹⁹ See *Aventure Order*, 23 FCC Rcd at 10097, ¶ 5.

REDACTED FOR PUBLIC INSPECTION

significant. Moreover, the economic consequences of depriving Connex of the full expected value of their refund also are significant. If Connex is not granted this waiver, permitting it to submit a revised version of its Form 499-A filing, the Company will lose the benefit of the remaining [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] that it was due in refunds. These are funds that could have been used for other purposes that would contribute to the growth or viability of the company. Therefore, it is critical that the Commission act consistent with prior precedent and rule that a clerical error of this magnitude justifies granting Connex's petition for waiver so that the Company can submit a revised version of its 2016 FCC Form 499-A.

D. Upon Discovery of Its Error Connex Immediately Took Corrective Action

Another factor considered by the Commission in reviewing waiver requests is when the filer first became aware of, and the steps taken to remedy, the error. Here again, Commission precedent supports a grant of Connex's waiver request. In the *Premiere Global, Adventure* and *Ascent Media Orders* the filers each took corrective measures relatively shortly after discovering their reporting errors.²⁰ Connex only discovered its reporting error less than a week after the 499-A revision deadline passed. Recognizing that submission of a revised Form 499-A after the revision deadline would be rejected by USAC, the Company instead chose to immediately seek Commission waiver of the one year downward revision filing deadline. Accordingly, this waiver request is being submitted within little more than a week of the Company identifying its reporting error. This prompt action of immediately seeking resolution from the FCC, which is the appropriate body from which to seek a rule waiver instead of wasting

²⁰ See *Adventure Order*, 23 FCC Rcd at 10096-97, ¶ 2; *Ascent Petition* at 3; *Ascent Media Order* 28 FCC Rcd at 06154-55, ¶¶ 10-11; and *Premiere Global Order*, ¶ 5.

REDACTED FOR PUBLIC INSPECTION

time and resources by seeking resolution from USAC that it is not authorized to provide, supports a finding that the Company has taken timely and appropriate action after discovering the reporting error. Based on Connex's prompt and appropriate actions to resolve its clerical error, the FCC should grant a waiver of the one-year downward revision deadline and allow Connex to resubmit a revised 2016 FCC Form 499-A.

E. Granting Connex's Waiver Request is in the Public Interest

Public interest considerations support grant of Connex's waiver request. Connex has always diligently sought to comply with the relevant FCC USF filing requirements. In the case of its 2016 Form 499-A filing, which was timely filed, Connex inadvertently made an error that resulted in the Company being over inclusive in reporting its revenues. Denying Connex the ability to correct that clerical error which resulted in the Company receiving a refund that was nearly [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] *times less* than the refund to which it was entitled is not in the public interest. Connex only recently became aware of the error that caused the shortfall in its refund of the Company's overpayment and immediately took action to seek a waiver of the 499-A downward revision filing deadline.

The only way that Connex will be made whole is by Commission grant of this waiver request. Unlike errors in 499-Q reporting that are resolved by the annual true-up process,²¹ Connex has no subsequent true-up process by which it can obtain the remaining [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in USF contribution overpayments due to the Company. Accordingly, it is in the public interest for the FCC to grant

²¹ See, e.g., *Adventure Order*, 23 FCC Rcd at 10098, ¶ 6 (finding that a delay of 15 months before the petitioner could benefit from the annual true-up supported granting a waiver).

REDACTED FOR PUBLIC INSPECTION

this request for waiver of the 499-A revision deadline and allow Connex to submit its revised 2016 Form 499-A.

III. GRANTING CONNEX'S WAIVER REQUEST WILL NOT ADVERSELY IMPACT THE UNIVERSAL SERVICE FUND

The Commission cited the ability to “improve administrative efficiency, provide certainty, stability, and sufficiency for the funds covered by the [Form]”²² as one of the key rationales for establishing the twelve-month Form 499-A revision deadline. Connex acknowledges this rationale and asserts the Universal Service fund will not be harmed, and USAC will not be prejudiced, by the Commission granting this waiver request. The shortfall in Connex’s USF contribution refund resulting from the Company’s clerical error, while burdensome to Connex, represents only a miniscule portion of the total universal service fund. In fact, the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] refund shortfall due to Connex accounts to less than [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of the approximately \$8,354 million universal service fund for calendar year 2015.²³ Moreover, the [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] refund shortfall due to Connex is well within USAC’s anticipated 1% uncollectible USF contribution amount considered by the Commission when it calculates the contribution factor.²⁴

²² *IP Telecom Order*, ¶ 3 (citing to FCC Form 499-A One-Year Deadline Order, ¶ 10).

²³ *See* 2015 USAC Annual Report, 40, 41 at <http://www.lifelinesupport.org/about/tools/publications/annual-reports/default.aspx> (finding that the total size of the Universal Service Program for calendar year 2015 was approximately \$8,354,619,000)

²⁴ *See, e.g.*, Public Notice, Proposed Fourth Quarter 2015 Universal Service Contribution Factor, at 2, DA 15-1016 (Sept. 15, 2015) (“To determine the quarterly contribution base, we decrease the Fourth quarter 2015 estimate of projected collected interstate and international end-user telecommunications revenues by the projected revenue requirement to account for circularity, and decrease the result by one percent to account for uncollectible contributions.”).

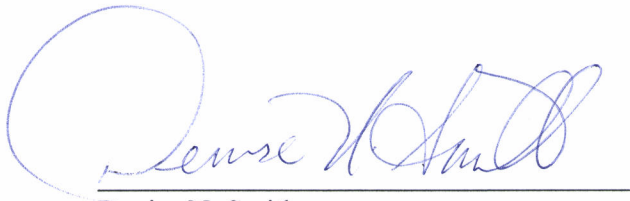
REDACTED FOR PUBLIC INSPECTION

Therefore, granting the waiver in this case will not adversely impact the fund and will ensure that Connex's error does not impose a disproportionate and inequitable burden on the Company.

IV. CONCLUSION

For the foregoing reasons, Connex respectfully requests that the Commission grant the Company's request for waiver of the one-year Form 499-A downward revision deadline so that Connex may resubmit its revised 2016 FCC Form 499-A to correct its erroneous USF contribution assessment and resulting USF contribution refund shortfall.

Respectfully submitted,



Denise N. Smith
Ross G. Slutsky
Kelley Drye & Warren LLP
3050 K Street, NW
Suite 400
Washington, D.C. 20007-5108

Counsel to Connex International, Inc.

Dated: April 13, 2017